

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WISCONSIN

EDDIE GENE EVANS,

Plaintiff,

ORDER

v.

13-cv-421-wmc

RICK RAEMISCH, *et al.*,

Defendants.

Plaintiff Eddie Gene Evans, a prisoner incarcerated in the Wisconsin Department of Corrections at the Columbia Correctional Institution in Portage, has submitted a proposed civil action under 42 U.S.C. § 1983. With the exception of habeas corpus proceedings, the fee for civil actions filed after May 1, 2013 is \$400 unless a litigant qualifies as indigent under the federal *in forma pauperis* statute, 28 U.S.C. § 1915(a), in which case the fee is \$350. Plaintiff has filed a motion for leave to proceed *in forma pauperis* in this case. (Dkt. # 2). After considering the motion and supporting documentation, the court concludes that plaintiff qualifies for indigent status for reasons set forth briefly below.

Because plaintiff is incarcerated, his case is governed by the Prisoner Litigation Reform Act (PLRA), 28 U.S.C. § 1915(b), which requires indigent inmates to pay by installment the entire filing fee for civil actions and appeals. The PLRA does not permit a court to waive a prisoner's entire obligation to pay filing fees, but it does allow a qualifying individual to proceed without prepaying some or all of the filing fee. To determine whether a prisoner qualifies for indigent status for purposes of the PLRA, this court applies the formula set forth in 28 U.S.C. § 1915(b)(1). According to this formula, a prisoner requesting leave to proceed *in forma pauperis* must prepay 20% of the greater of the average monthly balance or the average monthly deposits

made to his prison account in the six-month period immediately preceding the filing of the complaint. Unless he lacks sufficient funds, he must make an initial partial payment of the filing fee before the court will consider his complaint.

From the account statement that plaintiff submitted with this complaint, plaintiff's average monthly balance and average monthly deposits are both \$0.00. Therefore, it appears that plaintiff presently has no means with which to pay the filing fee for his complaint or to make an initial partial payment. Under these circumstances, the court will grant plaintiff's motion for leave to proceed *in forma pauperis*, but will not assess an initial partial filing fee. Plaintiff is advised, however, that he will remain obligated to pay the full amount of the \$350 filing fee for indigent litigants, even if this court ultimately determines that his complaint cannot go forward. *See* 28 U.S.C. § 1915A. Plaintiff's account will be monitored and prison officials are authorized to deduct the fee in monthly installments when the funds are available in accordance with the formula found in the PLRA, 28 U.S.C. § 1915(b)(2). The Clerk of Court will ensure that the court's financial records reflect that plaintiff owes the \$350 fee for filing this case.

ORDER

IT IS ORDERED that:

1. The motion filed by plaintiff Eddie Gene Evans for leave to proceed without prepayment of fees (Dkt. # 2) is GRANTED.
2. No further action will be taken in this case until the court has screened the complaint as required by the PLRA, 28 U.S.C. § 1915A. Once the screening

process is complete, a separate order will issue as soon as practicable depending on the demands of this court's heavy docket.

Entered this 24th day of June, 2013.

BY THE COURT:

/s/
PETER OPPENEER
Magistrate Judge